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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/703,767 08/27/96 MOURA

E 225019

EXAMINER

26M1/0110

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ART. 101.5 PAPER NUMBER

5

DATE MAILED 03

01/10/97

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 8-27-96

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-28 is/are pending in the application.

Of the above, claim(s) 1-20, 22-25 is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☒ Claim(s) 21, 26-28 is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☒ The proposed drawing correction, filed on 8-27-96 is ☐ approved ☒ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of Reference Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

- SEE OFFICE ACTION ON THE FOLLOWING PAGES -

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### **Part III DETAILED ACTION**

#### *Drawings*

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 8-27-96 have been disapproved because any proposal by the applicant for changes to the drawing to cure defects must be filed as a print or pen-and-ink sketch showing such changes in red ink. MPEP § 608.02(v). Correction is required.

#### *Information Disclosure Statement*

2. The information disclosure statement filed 8-27-96 fails to comply with 37 CFR § 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered as to the merits.

3. Claim 21 is provisionally rejected under 35 U.S.C. § 101 as claiming the same invention as that of claim 21 of copending application Serial No. 08/588,378. This is a *provisional* double patenting rejection since the conflicting claims have not in fact been patented.

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### ***Claim Objections***

4. Although applicants claims 26-28 meet the requirement of 112/2d, i.e. the metes and bounds are determinable, the grammar and syntax could be improved. Examples are in claim 26 lines 9-11 which recite "said updated credit signal" and "said data sent" lack clear antecedent basis because no updated credit signal nor data sent have been previously recited in the claim. In claim 26 line 5 which recite "a remote link adapter" is not clear as to whether it is reciting ---one of said plurality of remote link adapters--- of line 3 or what. In claim 27 line 1 delete "A system" and insert ---The system--- for clarity. In claim 28 lines 4-5 which recite the remote link adapter sending a message is not clear as to whether it is via the upstream channel or what. It is not clear whether the channel is coupled to the server and adapter or what. It is in the best interest of the patent community that applicant, in his/her normal review and/or rewriting of the claims, to take into consideration these editorial situations and make changes as necessary.

### ***Specification***

5. The disclosure is objected to because of the following informalities: on page 23 line 4 delete "500" and insert, at end of sentence in line 6, after the word "call," reference to Fig. 10, i.e. step ---500---, for clarity. Likewise in lines 10

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and 11 move "501" and "502" to end of sentence. In page 29 lines 11--15 which recite transmitting from node B to node A the credit corresponding to a predetermined amount of data is not clear whether applicant is reciting ---a data packet volume credit--- versus a monetary credit or what. Appropriate correction is required.

6. Applicant is required to submit a more legible copy of the specification because of missing words in middle of page 21 and fading at bottom of pages. It is difficult to tell whether punctuation marks are periods or commas or what.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --  
(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 26 and 28 are rejected under 35 U.S.C. § 102(e) as being anticipated by Zheng et al.

Zheng et al. disclose all the subject matter claimed. Note Zheng et al. teach that it is known to provide a credit/rate-

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based system for controlling traffic in a digital communication network. Col. 1 line 50 to col. 2 line 9 which recite the source interpreting the credit as an indication of the amount of data that it can transmit into the network without any data loss due to congestion or buffer overflow such that data rate is not controlled, but the number of cells, i.e. volume of data, transmitted is controlled and column 5 lines 9-17 which recite the destination end system keeping a record for each virtual channel of the numbers of cells received and their congestion status, i.e., whether or not the explicit forward congestion indication bit is set and secondly, the credit update cells for each virtual channel are assembled according to the number and/or status of cells received and the number of cells forwarded whereby credit update cells are sent back to the source of that virtual channel clearly anticipate the remote link adapter transmitting the credit signal and a done message to the server and the server for updating credit signal which corresponds to the volume of data less the data sent to the remote link adapter and sending a done signal indicative of the credit received less the amount of information received as in claims 26 and 28. Col. 6 lines 40-68 recite implementing the rate-based scheme including the step of setting rate for allowed cell rate ACR, minimum cell rate MDF is the Multiplicative Decrease Factor, and

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Nrm is a constant number which determines the frequency that feedback cells are generated.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. § 103, the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. § 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of potential 35 U.S.C. § 102(f) or (g) prior art under 35 U.S.C. § 103.

10. Claim 27 is rejected under 35 U.S.C. § 103 as being unpatentable over Zheng et al. as applied to claim 26 above, and in view of Strodbeck et al.

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Zheng et al. did not teach a non-responsive state assigned to the remote link adapter if the server does not receive credit signal from adapter.

Strodtbeck et al. teach that it is known to provide communication protocol for a high data rate satellite communication system including means for monitoring terminal which fails to send a monitoring message to the network control center within a required time period as set forth at column 5 lines 1-14 in the field of multiplex communication for the purpose of assigning a unresponsive state to that terminal and releasing a number of system resources which clearly anticipate the non-responsive state assigned to the remote link adapter if the server does not receive credit signal from adapter.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the assigned non-responsive state to the remote link adapter if the server does not receive credit signal from adapter as taught by Strodtbeck et al. because Strodtbeck et al. teach the desirable advantage of providing a high data rate communication protocol including means for monitoring terminal which fails or unresponsive for the purpose of releasing resources and said higher data rate communication protocol being desirable in order to achieve efficient system operation in Zheng.

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**Conclusion**

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Safadi discloses a configurable hybrid medium access control for cable metropolitan area networks.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shick Hom whose telephone number is (703) 305-4742.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4750.

SH  
January 6, 1997



DOUGLAS W. OLMS  
SUPERVISORY PATENT EXAMINER  
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